

U.S. CUSTOMS AND BORDER PROTECTION

CBP DIRECTIVE NO. 51335 015B

DATE: October 8, 2009

ORIGINATING OFFICE: HRM:HROPP

FSUPERSEDES: CD 51335 015A, 3/7/05

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SUBJECT: CBP Merit Promotion Plan

1. PURPOSE. This Plan establishes policy for implementing competitive merit selection procedures within U.S. Customs and Border Protection (CBP). It applies to filling all competitive service positions (e.g., General Schedule or equivalent and Federal Wage System) using an automated application and referral system. This Plan does not govern those positions filled through delegated examining authority granted from the Office of Personnel Management (OPM) or positions excepted from competitive selection procedures. Personnel actions covered by or excluded from these merit promotion and placement procedures are listed under the Personnel Actions Competitive Coverage Guide of the Plan (Appendix 1). Supplements to this Plan may be issued by CBP Human Resources Management (HRM), as needed, to govern additional policies and operational procedures for unique recruitment initiatives, processes or for specific occupations.

2. POLICY. In order to assure that all applicants receive an equal opportunity, selection procedures will be based solely on the relative ability, knowledge and skills of each applicant after fair and open competition.

3. AUTHORITY. 5 United States Code § 2301, 2302; 5 USC, Part III, Subpart B, 5 CFR Parts 300 and 335.

4. RESPONSIBILITIES.

4.1 Human Resources Professionals are responsible for implementing the Plan (and supplemental procedures); for advising managers and selecting officials to ensure that the selection programs produce a high quality workforce to accomplish the mission and goals of the component; and for providing periodic communication to management and employees on merit promotion practices and selection procedures.

4.2 Managers are responsible for ensuring that their roles in the selection process, as well as selection decisions, are consistent with the Plan, Merit Principles and other applicable laws. Supervisors and managers shall, upon request, provide guidance and advice on how an employee can improve or strengthen his/her qualifications. Management has the right to select or not to select from among a group of best-qualified candidates and to select from other appropriate sources, such as reemployment priority lists, reassignment, reinstatement, transfer, qualified individuals with disabilities, or Veterans Recruitment Act eligibles or those within reach on an appropriate OPM certificate, at any time during the recruitment/selection process.

4.3 Employees are responsible for submitting the required application materials and following the published application procedures for placement opportunities; becoming familiar with the Plan; and availing themselves of self development and job training opportunities.

4.4 Officials/Representatives Involved in Grievances and Equal Employment Opportunity (EEO) Procedures. The appropriate authorities involved in addressing grievances and EEO complaints regarding any action taken under the provisions of this Plan are to notify HRM, as deemed appropriate, to ensure that merit promotion files are maintained so that these actions can be processed in accordance with applicable regulations.

5. PROCEDURES.

5.1 PRIORITY PLACEMENT PROVISIONS. Employees entitled to and eligible for priority consideration or placement will be referred to the selecting official prior to other candidates, and if possible, before a vacancy announcement is issued. It is the responsibility of HRM to ensure that management officials afford priority candidates appropriate consideration, maintain documentation and, upon request, provide the appropriate documentation of consideration to priority candidates.

5.1.1 The following **order of referral** will be used as an exception to competitive selection procedures: employees eligible under the Career Transition Assistance Program (CTAP), Reemployment Priority List (RPL) eligibles, grade retention eligibles (i.e., employees enrolled in a Priority Placement Program), priority consideration eligibles (i.e., employees who failed to receive proper consideration in a previous promotion plan action), Interagency Career Transition Assistance Program (ICTAP), and the noncompetitive placement of any other outside candidate. CTAP/ICTAP regulations also provide for additional placement actions that may be effected at any time without regard to the existence of CTAP/ICTAP eligible candidates.

5.2 PAYMENT OF RELOCATION EXPENSES. The decision to pay or not to pay moving and related expenses must be made, except for long-term vacancy announcements, before the issuance of the vacancy announcement by the appropriate Organizational Head or his/her designee. A statement addressing the payment or nonpayment must be included in the vacancy announcement. Each organization will pay relocation expenses in accordance with the provisions of the Federal Travel Regulations and in compliance with CBP's policies.

5.2.1 The Government shall pay relocation expenses for employee transfers that are in the interest of the Government and are not primarily for the convenience or benefit of the employee. The decision not to pay relocation may be made if a potential, sufficient supply of local candidates exists. However, managers may decide to advertise positions outside the local commuting area in an effort to attract a sufficient number of highly qualified applicants. This decision does not automatically include the

requirement to pay relocation expenses. The decision not to pay relocation may be made if the position being filled is not one that would require special or hard-to-find skills; for jobs in which the skills could be attained in a reasonable amount of time with limited training, such as on-the-job training; or on the basis of other predetermined criteria established by the organization. Budgetary constraints alone cannot be the basis for denying such expenses.

5.3 MINIMUM AREA OF CONSIDERATION. The minimum area of consideration may be limited to CBP employees within the commuting area where the vacancy exists. However, the area of consideration must be sufficiently broad to ensure the availability of high-quality candidates, taking into account the nature and level of the position covered. If requested by the program office, HRM may approve a request, to restrict the minimum area of consideration. The commuting area is the geographic area that constitutes one area for employment purposes. To be considered, applicants must work within the predefined commuting area of the position to be filled. For applicants who are unemployed, the definition of local commuting area applies to their place of residence. The permanent duty location for employees who are on detail or temporary promotion for less than 1 year to another duty location will be considered the duty location of record for commuting area purposes.

5.4 VACANCY ANNOUNCEMENT OPEN PERIOD. Announcements should remain open for a minimum of 5 business days under automated application procedures. Business days are Monday through Friday (excluding holidays). However, if, as a part of the application procedures, applicants are required to provide narrative responses to individual evaluation criteria, announcements should be posted for a minimum of 10 business days. Shorter open periods may be established if, based on previous experience filling similar positions (i.e., within the past 12 months), a sufficient number (based on referral criteria) of well-qualified applicants have been received in response to the vacancy announcements.

5.5 VACANCY ANNOUNCEMENT INFORMATION. At a minimum, vacancy announcements must, if applicable, contain the following information:

- vacancy (or job opportunities) identification
- number of vacancies
- position title, series, and grade (or pay rate)
- the full performance level of the job
- duty location(s)
- opening and closing dates
- qualification requirements
- selective placement factor(s)
- salary range
- duties of the job
- basis of rating (evaluation method(s) to be used)
- area of consideration (including relocation statement)
- whether the position is in the bargaining unit or non-bargaining unit
- instructions on what to file and how to apply

- declination procedures (usually for large, nationwide announcements with multiple locations)
- equal employment opportunity nondiscrimination statement
- reasonable accommodation statement
- veterans' preference information and any other special requirements, such as
- CTAP language, including the definition of well qualified

5.5.1 Announcements may be issued as open continuous and applications accepted until the announcement is rescinded, but not in excess of one year. Announcements also may be issued to establish a pool of applicants so that certificates may be issued up to one year from the closing date of the announcement. In order to allow sufficient time to complete the evaluation process for announcements that include additional evaluation methods after the closing date of the announcement (e.g., written test, structured interview), certificates may be issued up to one year from the issuance of the first certificate. In either case, vacancy announcements must specify the intent to establish long-term use and indicate how long certificates may be used.

5.5.2 Vacancies filled under the provisions of this Plan will be publicized on OPM's USAJOBS web site.

5.6 APPLICATION. Candidates who wish to be considered for positions announced under the provisions of this Plan must apply on-line (via the Internet) in accordance with the application procedures explained in the vacancy announcement. Failure to submit the required forms (including a resume if requested) may result in loss of consideration. Employees within the area of consideration who are absent for legitimate reasons, e.g., on detail, temporary promotion, on leave, attending training courses, in the military service, or serving in public international organizations or on Intergovernmental Personnel Act assignments, will receive appropriate consideration for those positions to which they apply. All application materials must be received by the closing date of the announcement. Exceptions may be granted to employees who are unable to apply to an announcement by the closing date due to unique circumstances, such as extended military service. In these situations, HRM may allow an employee to apply and receive consideration after the closing date of an announcement, provided no selection has been made.

5.6.1 Application procedures will include submission of electronic application materials and will conform to any OPM requirements. Potential applicants within the stated area of consideration who may need additional assistance in applying on-line, e.g., those with no reasonable access to the Internet, may contact HRM before the closing date for assistance. Human Resources Specialists can provide suggested sources for applying on-line. In unique circumstances, they can provide options for submitting the required information via facsimile; in these instances, the applicant must obtain prior approval from the Human Resources Specialist and the facsimile must be received in HRM prior to the closing date.

5.6.2 For those positions filled using occupational tests, specific instructions regarding testing times, locations and any other administrative information will be determined on a case-by-case basis by HRM. Factors considered in determining test administration may be based on such factors as applicant location, response volume, hiring needs, etc.

5.7 APPLICANT EVALUATION.

5.7.1 Candidates will be evaluated for positions and receive a rating based on their job-related knowledge, skills, and abilities (KSAs). This evaluation may be based on one or more evaluation methods described below. The evaluation of applicants under these methods must be against criteria developed through appropriate job analysis procedures. The KSAs identified through job analysis must be critical for successful performance. These factors must be able to measure the extent and/or degree the applicant possesses the KSAs and must be fairly and consistently applied in order to distinguish potential job performance among the applicants.

a) ***Answers to job-related questions.*** Applicants may be evaluated based on answers to job-related questions, using a rating method determined through an appropriate job analysis.

b) ***Job-related/occupational tests.*** Only tests approved by the OPM and/or HRM as part of a comprehensive set of assessment procedures may be used. Without prior OPM approval, CBP cannot implement a written test to determine basic eligibility (i.e., on a pass-fail basis), or as the single evaluation instrument in assessing in-service applicants.

c) ***Narrative responses to job knowledge, skill, ability or competency requirements.*** Applicants may be evaluated based on narrative responses to the required KSAs and/or information provided in the employment application/resume. This evaluation may be performed by one or more individuals familiar with the position to be filled. The information provided by the applicant must be reviewed and compared to the required KSAs identified for successful job performance. The evaluation instrument will consist of four levels for each KSA: Excellent, Good, Moderate and Barely Acceptable levels, and will be scored 4, 3, 2, or 1 respectively. If an applicant shows no evidence of possessing a particular KSA or if there is insufficient information on which to base a rating, a zero score will be assigned. (See Appendix 2 for an explanation of scoring).

d) ***Structured interviews.*** Applicants may be evaluated based on responses to standard questions under a structured interview method. This assessment is used in conjunction with other assessments. The results of the interview may be scored and applied to an applicant's overall rating or used on a pass/fail basis.

e) ***Other approved assessment instruments.*** Any other approved assessment method or process may be used provided it is based on a relevant

job analysis that can measure an applicant's job-related knowledge, skill, or ability requirements and can be fairly and consistently applied to all candidates.

5.7.2 HRM will determine whether applicants meet the minimum qualification standard as prescribed or approved by OPM, or, for Senior Level positions, the Department of Homeland Security. To be eligible for promotion or placement under this Plan, applicants must meet minimum qualification and eligibility requirements, including all selective placement factors and time-in-grade requirements, by the closing date or the date specified in the announcement.

5.7.3 Information on performance appraisals and awards documented in the application package will be given due weight during the evaluation/rating review and/or at time of final selection consideration. Awards and appraisals will be considered as additional sources of information only. Mere possession of a specific number of awards or a specific appraisal level will not, in and of themselves, be factors in the evaluation process and will not be used to mechanically increase ratings.

5.7.4 Ratings will be transmuted based on a total possible score of 100 points. The minimum qualifying score will be 70 points.

5.8 APPLICANT REFERRALS. Applicants will be considered for selection based on the rating received from the evaluation process. The applicant's final rating is a reflection of his/her overall education, training, and/or experience for a particular position and will determine further selection consideration. Those applicants who meet the basic eligibility requirements and are determined best qualified may be referred for selection consideration. All competitive applicants will be evaluated and referred to the selecting official in score order. Applicant scores will not be shown on the selection list. Applicants for whom competitive procedures do not apply, e.g., alternate staffing candidates, may be considered and referred, in a separate category, for selection consideration in alphabetical order, provided they meet the basic qualification and eligibility requirements, along with those referred as best qualified.

5.8.1 In an effort to ensure diversity and meet affirmative action goals, a sufficient number of best-qualified applicants will be referred. Normally, 20 applicants will be referred for one vacancy with 3 additional applicants for each additional vacancy. Within the applicant referral ranges, all applicants with tied scores will be referred. Refer to Appendix 3 for the specific steps in preparing and completing a best-qualified list. The evaluation board member(s) or the Human Resources Specialist may refer fewer applicants if it is determined that a significant difference exists in the applicants eligible for referral, or a natural break occurs. Additionally, the evaluation board member(s) or the Human Resources Specialist may refer more applicants depending on where a significant difference or a natural break occurs. In this case, all applicants within this group will be deemed best qualified, regardless of the number of applicants being referred, and any individual(s) may be selected. If the best-qualified list is less than or more than the 20 applicants normally referred, the case file must be clearly documented as to the reason(s) why the list was reduced or expanded.

5.9 WELL QUALIFIED FOR I/CTAP ELIGIBLES. Applicants eligible under the selection priority provisions of the CTAP or ICTAP will be considered well qualified with a score of 85 or higher.

5.10 SELECTION INTERVIEWS. At their discretion, selecting officials (or their designees) may interview any or all applicants referred as best qualified. Interviews may be conducted in person or by telephone.

5.11 SELECTION. Selecting officials may choose any applicant referred on the best-qualified list. However, in cases where fewer vacancies are filled than initially identified, selections must be within the allowable number of referrals for each vacancy (refer to Appendix 3). If a selecting official chooses to make more selections on a best-qualified list than for which originally certified, he/she may make selections from the existing best-qualified list or request a new best-qualified list with additional applicants.

5.11.1 Selecting officials may select from those referred as best qualified and/or alternate staffing. Alternate staffing candidates, or candidates from any other appropriate source, may be selected at any time in the process of filling a position.

5.11.2 Selecting officials are encouraged to make selections in a timely manner. Normally, selections for other than long-term vacancy announcements should be made within 30 days from the issue date of the selection certificate. Each certificate issued must indicate the date the certificate expires. HRM may approve extensions with a goal toward completing the selection process within 45 days. Except in unusual circumstances, extensions should not exceed 120 days from the issuance date.

5.11.3 If, within 120 days of the issuance of the initial selection list, additional vacancies covered by the same official position description, location, and organization occur, applications from the previous announcement may be used for certification for these positions.

5.11.4 Once a candidate has been selected and has accepted the position, the candidate will not receive further consideration under that vacancy announcement. Similarly, if an applicant's employment status has changed since applying for a position under a vacancy announcement which results in the applicant meeting the criteria for being a noncompetitive eligible, he/she will be considered as an alternate staffing candidate under that announcement.

5.12 APPLICANT NOTIFICATION. At a minimum, applicants will be notified of application receipt and the final status of their application. To the extent possible, the announcement status will be made available to applicants.

6. RELEASE DATES. An employee will be released for promotion no later than one complete pay period following an official request by HRM to the losing office for a release date, except that a longer period may be allowed for employees being reassigned, changed to lower grade, or in cases of relocation. In these cases, the

employee will be released as of the effective date established through mutual agreement between the losing and receiving offices and the employee. This should normally be no later than two complete pay periods following an official request to the losing office for a release date.

7. COMPLAINTS AND GRIEVANCES. Employees must use current procedures for filing grievances and complaints. HRM shall respond promptly to questions or complaints about the program or about a specific selection action. If a candidate feels that he/she has been discriminated against in the merit process on the basis of race, color, religion, sex, national origin, age, sexual orientation, protected genetic information, status as a parent, lawful political affiliation, marital status, physical or mental disability (if not a job factor), membership or non-membership in an employee organization, or any other non-merit factor, every effort will be made to handle the matter on an informal basis through appropriate procedures. If the matter cannot be resolved informally, the candidate may pursue the matter using current grievance, EEO, or other appropriate procedures.

8. DOCUMENTATION. A temporary record of each action taken under the provisions of this Plan will be maintained for a period of at least 2 years from the date of selection or until the action has been formally evaluated by the OPM (whichever comes first). Merit promotion files that are related to EEO complaints or grievances will be maintained in accordance with the National Archives and Records Administration, General Records Schedule for Civilian Personnel Records, provided HRM was timely notified by the appropriate office of such actions prior to the end of the normal retention period. The documentation should be sufficient to allow reconstruction of the entire promotion action, including documentation on how candidates were rated and ranked

9. RELEASE OF INFORMATION. The following information may be released to an applicant or his/her designee (with written authorization) when requested:

- whether the requesting applicant was qualified and/or referred for selection
- if not qualified, the reason(s)
- name of selectee(s)
- cut-off score (*lowest score referred*)
- ratings/scores of best-qualified candidates

The following information may NOT be released:

- confidential examining material (e.g., answer keys, rating schedules and crediting plans, rating sheets, test booklets, etc.)
- any information that may intrude upon the privacy of other individuals
- any other materials that would compromise the objectivity or fairness of the examination and evaluation process

10. MEASUREMENT. Merit promotion case files will be reviewed to assure regulatory compliance with existing regulations, laws, policies and procedures and to

ensure that actions taken under this Plan are within the intent of merit principles. The review should include all areas, with special attention to:

- the Plan's effectiveness, fairness, and usefulness to management and employees
- the accuracy and timeliness of promotion actions
- the timeframes for resolving employee complaints

The results of these reviews will be used to determine if changes to this policy are needed.

Christine E. Gaugler
Assistant Commissioner
Human Resources Management

Appendix 1 - Personnel Actions Competitive Coverage Guide

Proposed Action	Proposed Position	And	Competition Required
Promotion, Reassignment, Change to Lower Grade	is one with known promotion potential greater than the potential of a position an employee currently holds or previously held on permanent basis in the competitive service		Yes
	is <u>not</u> one with known promotion potential or promotion potential is no greater than the potential of a position previously held on a permanent basis	Employee was not separated or demoted because of performance or conduct reasons	No
Promotion	to a grade previously held on a permanent basis in the competitive service	employee was separated or demoted for other than performance or conduct reasons	No
	to position to which employee was detailed for training or evaluation	the employee was selected for detail under competitive procedures and all competitors were informed that the detail could lead to promotion without further competition	No
	to a higher grade in the employee's career ladder position *		No
Promotion resulting from an employee's position being classified at a higher grade because of additional duties			No

Proposed Action	Proposed Position	And	Competition Required
and responsibilities			
Temporary Promotion	is for more than 120 days	the position is one with known promotion potential greater than the potential of a position an employee currently holds or previously held on permanent basis in the competitive service	Yes
		the position is one with known promotion potential no greater than the potential of a position an employee currently holds or previously held on permanent basis in the competitive service	No
	is for 120 days or less	the employee has not served on a noncompetitive temporary promotion for an aggregate of 120 days in the last 12 months	No
Reinstatement Or Transfer	is at a higher grade than previously held on a permanent basis or is one with known promotion potential greater than the potential of a position an employee currently holds or previously held on permanent basis in the competitive service		Yes
	is at the same or lower grade than previously held on a permanent basis or is one		No

Proposed Action	Proposed Position	And	Competition Required
	with <u>no</u> known promotion potential greater than the potential of a position an employee currently holds or previously held on permanent basis in the competitive service		
Detail	same grade as employee's current position	detail is for any length and the position is one with no known promotion potential greater than the potential of a position an employee currently holds or previously held on permanent basis in the competitive service	No
	is to a higher-graded position	detail is for more than 120 days (including extensions), and the position is one with known promotion potential greater than the potential of a position an employee currently holds or previously held on permanent basis in the competitive service	Yes
		the position is one with known promotion potential no greater than the potential of a position an employee currently holds or previously held on permanent basis in the competitive service	No
	is to a higher-graded position	detail is for 120 days or less (including	No

Proposed Action	Proposed Position	And	Competition Required
		extensions), and the employee has not served an aggregate of 120 in such a position in the last 12 months	
Selection for training leading to promotion		successful completion of training is a condition of eligibility for promotion	Yes
Conversion of temporary promotion to permanent promotion		the employee was selected for temporary promotion under full competitive procedures and all competitors were informed that the temporary promotion could lead to permanent without further competition	No

* Promotions for employees in career ladder positions will be processed as follows:

All employees in career ladder positions will be promoted on the first pay period after a period of 52 weeks, or whatever lesser period may be applicable, provided the supervisor has determined that the employee has demonstrated the ability to perform at the higher grade level, all qualification and administrative requirements have been met, the employee's current rating of record is at least fully successful (or equivalent), and there is sufficient higher level work to be performed.

Appendix 2 – Determining Final Rating Score

To determine the final rating:

- a. Each rater will determine the score to be awarded to each applicant in each KSA
- b. Add the raters scores together to determine the total score in that KSA
- c. This total score is then divided by the number of raters to obtain the average score in the KSA.
- d. The scores in each KSA will be totaled to determine the raw score for all KSA's.
- e. If the raw score contains a decimal, it must be rounded (.5 or higher is rounded up; .49 or lower, rounded down).
- f. The raw score is transmuted using established transmutation tables to determine the final rating, which will be used to determine the rank order for selection consideration.*

The following is an illustration of the scoring procedures:

Note: The parenthetical letters correspond to the steps above.

	(a) Rater A	(a) Rater B	(b) Total Score	(c) Average Score	Comments
KSA 1	2	3	5	$5 \div 2 = 2.5$	
KSA 2	3	2	5	$5 \div 2 = 2.5$	
KSA 3	1	2	3	$3 \div 2 = 1.5$	
KSA 4	1	1	2	$2 \div 2 = 1.0$	
(d) Raw score				7.5	Sum of KSA scores (2.5 + 2.5 + 1.5 + 1)
(e) Rounded score				8.0	Raw score is rounded up (.5 or higher is rounded up; .49 or lower, rounded down)
(f) Final Rating (Transmuted score)				85	From OPM DEU transmutation table that began with 16, which is the highest possible score an applicant can receive. (4 KSAs multiplied by a maximum 4 points for each)

*Use the transmutation table in the Office of Personnel Management Delegated Examining Operations Handbook, Appendix J, which begins with the number matching the maximum of points an applicant can receive in the evaluation process.

Appendix 3 - Best-Qualified List Preparation Guide

To determine the best-qualified list, complete the following steps and grid.

- 1) Prepare a ranked list of all qualified applicants (from highest score to lowest score).
- 2) Determine the number of vacancies.
- 3) Identify the number of applicants to be referred based on the number of vacancies: 20 for 1 vacancy, 23 for 2 vacancies, etc.
- 4) Using the ranked list, identify the cut score based on the number of applicant referrals from column B. Enter this score on the appropriate vacancy line in column C.
- 5) Determine the number of applicants with the cut score or higher. Enter this number in column D. Note that all candidates with tied scores will be referred.
- 6) Prepare the best-qualified list from the number of applicants identified in column D.

(A) Number of Vacancies	(B) Number of Applicants Normally Referred	(C) Cut Score <i>(from the ranked list of qualified applicants)</i>	(D) Actual Number of Applicants to be Referred*
1	20		
2	23		
3	26		
4	29		
5	32		
<i>(continue in increments of 1)</i>	<i>(continue in increments of 3)</i>		

*Note: This number may be higher than the number of applicants identified in Column B due to ties.